

# EXHIBIT 1

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT  
AND SEARCH WARRANT APPLICATION**

I, James F. Loomis, being duly sworn, depose and state as follows:

**Affiant Background and Purpose of Application**

1. I submit this affidavit in support of an application for a criminal complaint charging Jacob L. Spencer with violating Title 18, United States Code, Section 922(a)(6) on or about January 26, 2023, by knowingly making a false written statement to a Federal Firearm Licensee (FFL) in connection to a firearms purchase.

2. I am a Task Force Agent (TFA) with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), and I have been since September 2023. In my capacity as a TFA, I am familiar with the federal laws relating to the acquisition, possession, and transfer of firearms and the distribution of, possession with the intent to distribute, and conspiracy to distribute controlled substances. I have been trained in the investigation of violations of those laws, and I have participated in many such investigations. I am also a Border Patrol Agent (BPA) Intelligence (Intel) [BPA-I] with the United States Border Patrol (USBP), a component of the Department of Homeland Security (DHS), assigned to the USBP Swanton Sector. I have been employed as a BPA since August 2011. I am currently assigned as a BPA-I and have been so since May 2019. My current duty station is at the Richford Station in Richford, Vermont. I received formal training to identify and investigate alien, narcotics, and firearm smuggling activities both at the United States Border Patrol Academy in Artesia, New Mexico from August 2011 to January 2012 and through regular and recurring on-the-job training and course certifications.

3. The information contained within this affidavit is based upon my training and experience, my own investigative efforts, and investigation by other law enforcement officers with whom I have spoken or whose reports I have reviewed. The following is either known to

me personally or has been related to me by persons having direct knowledge of the events described below. The information in this affidavit is meant to set forth probable cause to believe that Jacob Spencer committed certain offenses; it does not necessarily include every fact known to law enforcement about the events described below. Unless otherwise specified, the statements described in the following paragraphs are related in sum and substance and are not meant to be direct quotations or complete descriptions.

#### **Probable Cause**

4. On June 6, 2024, I was made aware that a firearm recovered in Springfield, Massachusetts had been traced back to an original purchaser in Vermont. The firearm was recovered inside a Vermont plated Honda Civic that was encountered during a series of gang-related, officer-involved shootings in Springfield, Massachusetts on June 5-6, 2024. The firearm a Glock, Model 29, 10-millimeter, semi-automatic pistol, serial number AGSC520, was purchased by Jacob Spencer on October 27, 2022, at Powderhorn Outdoor Sports, Inc. in Williston, VT. I have since reviewed the ATF Form 4473 (Firearms Transaction Record) associated to that firearm. On this form Spencer checked “Yes” to box 21a, indicating that he was the actual purchaser of the firearm(s) and not buying on behalf of anyone else. Spencer also checked “No” to box 21e, indicating he was not addicted to or an unlawful user of any controlled substances at the time of the purchase. Spencer signed the form indicating he understood providing false information on the form is a federal felony offense.

5. Because of the June 6, 2024 gun recovery, I began querying law enforcement systems for additional firearm recoveries or purchases associated with Spencer. This search revealed that law enforcement recovered an additional firearm in Springfield, MA on September 11, 2023, which was traced back to Spencer as the original purchaser. That firearm, a Glock,

Model 43x, 9-millimeter, semi-automatic pistol, serial number BYCG005, was purchased by Spencer on January 26, 2023, at Rite Way Sports, Inc. in Hardwick, VT. I also learned that Spencer had purchased three other Glock pistols during the January 26, 2023 Rite Way Sports transaction. I have reviewed the ATF Form 4473 and ATF Form 3310.4 (Multiple Sale Report) for that January 26, 2023 transaction. On the 4473, Spencer again checked "Yes" to box 21a, indicating that he is the actual purchaser of the firearm(s) and not buying on behalf of anyone else. Spencer also again checked "No" to box 21e, indicating he was not addicted to or an unlawful user of any controlled substances. Spencer signed the form indicating he understood providing false information on the form is a federal felony offense. I also obtained a copy of the store receipt from this transaction, indicating Spencer purchased the four Glock pistols for \$2,356.38 and paid in cash.

6. Additional records obtained from law enforcement databases and by contacting local federal firearm licensees (FFLs) revealed numerous other firearms purchases by Spencer since 2022. The purchases known to date (16 total) inclusive of those already mentioned are outlined below:

- a. On September 27, 2022, Spencer purchased one Ruger pistol from the Gun Shop in East Haven, VT.
- b. On October 4, 2022, Spencer purchased one Springfield pistol from The Gun Shop in East Haven, VT.
- c. October 7, 2022, Spencer purchased two Glock pistols from Powderhorn Outdoor Sports Center in Williston, VT.
- d. On October 27, 2022, Spencer purchases one Glock pistol from Powderhorn Outdoor Sports Center in Williston, VT.

- e. On November 4, 2022, Spencer purchased four Glock pistols from the Gun Shop in East Haven, VT.
- f. On January 26, 2023, Spencer purchased four Glock pistols from Rite Way Sports in Hardwick, VT.
- g. On June 23, 2023, Spencer purchased one Glock pistol from Powderhorn Outdoor Sports Center in Williston, VT.
- h. On April 2, 2024, Spencer purchased one Glock pistol from Powderhorn Outdoor Sports Center in Williston, VT.
- i. On April 11, 2024, Spencer purchased one Glock pistol from Powderhorn Outdoor Sports Center in Williston, VT.

7. On June 6, 2024, I traveled to Spencer's address of record in Sutton, VT to attempt a voluntary interview with Spencer. I knocked on the door and a woman claiming to be Spencer's mother answered. The woman stated that Spencer has not lived at the Sutton, VT address for almost a year and that she believed he is currently homeless in the Burlington, VT area. Spencer's mother stated that she had reached out to him that morning via Facebook Messenger to check-in with Spencer. She stated that Spencer responded that he was well. I showed Spencer's mother a Facebook profile that I had identified as belonging to Spencer and she verified that this was the same profile she used to communicate with him. I asked Spencer's mother if Spencer had a history of drug use and she stated that he did have drug issues in the past but was unsure about presently.

8. On June 7, 2024, I called Spencer at a phone number listed on a recent ATF Form 4473. Spencer answered and I identified myself as a TFA with ATF. Spencer declined to be interviewed until he could retain an attorney. I asked Spencer to follow up with me by June 12,

2024, which he failed to do. Several attempts to contact Spencer since then have been unsuccessful.

9. I have reviewed law enforcement databases for criminal history associated with Spencer and discovered the following:

- a. On January 14, 2023, Spencer was encountered and issued a citation for retail theft by the Berlin, VT Police Department (BPD). During that encounter, Spencer gave consent to BPD Officer Collin Morin and Detective Daniel Withrow to search his vehicle and his backpack, which contained stolen property from Kohl's department store. During the consent searches, BPD discovered dozens of used and unused needles, used glassine wax bags commonly used for heroin or fentanyl distribution, and other drug paraphernalia. When asked about drug use, Spencer told BPD that he had last used drugs the day before the encounter (January 13, 2023) and that he has been a user of heroin for about 15 years. This encounter was recorded via Officer Morin's and Detective Withrow's body worn cameras. I have personally reviewed this footage.
- b. On November 20, 2023, Spencer was encountered by Vermont State Police (VSP) Trooper Griffin Pearson at the Cumberland Farms convenience store in Lyndonville, VT. Spencer was one of two males Trooper Pearson found sleeping or unconscious in a running vehicle in front of the Jolley store at approximately 12:30 a.m. Spencer was in the driver's seat. Trooper Pearson observed in plain view a bag of needles in the passenger's lap and needle caps near the driver's seat. Trooper Pearson knocked on the window to wake the

men up and observed signs of impairment in both, including watery bloodshot eyes and constricted pupils. Trooper Pearson observed that Spencer was clinching something in his right fist, and ordered Spencer to reveal what it was. When Spencer unclenched his fist and lifted his arm, a small glass bottle containing a white powdery substance fell to the ground. Trooper Pearson ordered Spencer out of the vehicle and asked him what was in the glass bottle, Spencer stated that it contained “five bags.” Trooper Pearson asked Spencer to identify the substance they contained, and Spencer eventually revealed it contained fentanyl. Spencer was transported to the St. Johnsbury VSP barracks for evaluation by a Drug Recognition Expert (DRE). Trooper Graces, a DRE, responded and read Spencer his *Miranda* rights. Spencer declined to speak with or be evaluated by Trooper Graces. Spencer initially declined to voluntarily give a blood sample for toxicology tests but after speaking to an attorney decided to provide a sample voluntarily. A blood sample was taken from Spencer by CALEX Ambulance Service at the St. Johnsbury VSP Barracks and submitted to the Vermont Forensic Laboratory (VFL) for toxicology testing. On December 26, 2023, the VFL reported that toxicology results from Spencer’s blood sample tested positive for cocaine and fentanyl use. The contents of the glass bottle with white powdery substance were also sent to the VFL for testing. Spencer has been charged with Driving Under the Influence-Drugs and that case is still ongoing.

- c. Based on my review of Spencer’s criminal history, including statements made to law enforcement during interactions with officers, I believe there is

probable cause that Spencer was a user of or addicted to controlled substances on or about January 26, 2023.

**Conclusion and Requests**

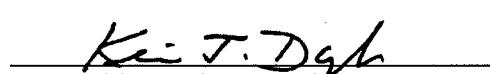
10. Based on the foregoing, I submit there is probable cause to believe that on or about January 26, 2023, in the District of Vermont, Jacob L. Spencer violated 18 U.S.C. § 922(a)(6) by knowingly making a false written statement to an FFL in connection with a firearms purchase—specifically denying his use of and addiction to controlled substances. I respectfully request the Court issue a Criminal Complaint charging him accordingly and a warrant for his arrest.

Dated at Burlington, in the District of Vermont, this 17<sup>th</sup> day of June 2024.



James F. Loomis  
Task Force Agent, ATF

Subscribed and sworn to before me on this 17<sup>th</sup> day of June 2024.



Honorable Kevin J. Doyle  
United States Magistrate Judge  
District of Vermont